

## **Consumer Forum on the Postal Services Bill – Notes of Meeting**

**10.30am – 12.30pm, Wednesday 11 March**

**Consumer Focus, Artillery House, Westminster, London**

### **Introduction**

Roger Darlington introduced the forum, which was followed by a brief discussion on recent events.

On 26 February 2009 the Government published the Postal Services Bill and a detailed policy statement. The Bill followed on from the Hooper Review, which reported back on 16 December 2008. A number of Amendments are anticipated as the Bill progresses toward its final form.

On 10 March the Bill had its second reading in the House of Lords. BERR noted that the Bill received more support than was expected, with many of those not supporting the Bill accepting that the status quo was not a tenable option in the long term. It was also noted that the Bill received some support due to a lack of alternative options for modernization. Given the opposition to the Bill by many MPs it was noted that debate would intensify when the Bill moved to the House of Commons.

### **Postal Services Bill overview**

Sue Bide from BERR gave an overview of the proposed legislation, discussing each of the Bill's three parts:

#### Restructuring of Royal Mail Group (RMG)

- The bill proposes to sell a minority share in Royal Mail. The policy statement suggests 30 percent will be the likely private holding, although it could be up to 49 percent. The size of the shareholding aims to protect the minority shareholder from further sale and also to ensure they remain a minority and not a majority shareholder.
- In the future, primary legislation will be required for any possible further sale, once the terms of this sale have been finalized.
- Royal Mail's accountability to Parliament will be increased under the new legislation. RMG/Letters and Post Office Ltd (POL) will be required to present their accounts to Parliament.

#### Pensions

- A new Government pension scheme will be created. This will include protection for past entitlement and the possibility for staff to accrue existing pension equity, currently a major concern for the Communication Workers Union (CWU).
- Post Office Ltd will need a separate, stand alone pension scheme.
- Details of the pension scheme will be covered in secondary legislation.

## Regulation of Postal Services

- Responsibility for regulation will transfer from Postcomm to Ofcom.
- Ofcom will ensure the universal service is provided, which will be the regulator's first priority above competition.
- The Bill allows for the universal service to receive financial support from a compensation fund. Postal service providers may have to contribute to this fund.
- A general authorization regime will replace the current licence regime. Postal operators will then have conditions imposed on them by Ofcom under which they can operate.
- Ofcom will be able to use its competition powers as regulator, while its powers to obtain information will be extended.
- Another advantage for Ofcom will be that it can use its expertise and resource from its role within the wider communications sector.
- Ofcom will ensure Royal Mail operates with more transparency.

Following the presentation, a range of issues were discussed.

### **Ownership and management structure of the new entity**

- The 30 percent holding will be in the Royal Mail Group Ltd/Letters Business only; POL, GLS and Parcelforce will form no part of the deal.
- The partner organization will be entitled to a seat on the board. However, it is expected that they will have more influence as a partner and through their ability to bring in expertise at an executive level.
- Royal Mail will be run as a commercial business.

### **Royal Mail's relationship with the CWU**

- There was a hope expressed that the 'slate will be wiped clean' and that Royal Mail can forge a new relationship with the CWU.
- During the bid assessment process the track record of potential strategic partners will be closely scrutinized.

### **Referral to competition authorities**

- There was agreement that Royal Mail is in desperate need of modernization and that a lengthy process could work to the detriment of consumers.
- Depending on who the strategic partner is, the matter may need to be considered by the European Commission and could take up to 18 months.
- Although a deal has not yet been concluded, early discussions are already being held with the Competition Commission – this is not seen as a barrier to progression of the Bill.

### **Consumer interest in the ownership of Royal Mail**

- Some attendees indicated that although consumers were interested in who owned the postal service, the key issue is that governance is fit for purpose and sufficient expertise is brought in to improve the service.

### **Pensions**

- The Government is currently working on options to address the deficit, however it was noted that public funding from elsewhere will not be used to 'plug the gap'.

### **Regulatory Arrangements**

- The areas of the Bill covering Ofcom's future responsibilities, particularly toward the universal postal service, were discussed.
- The USO was the first priority in terms of regulation for Postcomm, deriving from Section 31 of the Postal Services Act 2000, and from EU legislation. This priority hasn't changed but is made more explicit in the proposed legislation. In the Bill, Schedule 10, Part 2, Section 54 explicitly states that the provision of the USO takes priority over any other duties.

### **Potential benefits for consumers**

- It was noted that the regulatory changes did not reflect failure by Postcomm, but instead that Ofcom had more resources available to them, which would have a positive impact in regulating the postal industry.
- The Bill gives Ofcom better powers, and the move to a general authorization regime means operators will be able to make changes to the services they offer, without the requirement to negotiate with Ofcom in advance.
- These new provisions, combined with the increased resource and expertise from Ofcom, ensure that Royal Mail will need to disclose more information in the future, aiding Ofcom in their work on price control regulation.
- Ofcom will be able to fully investigate the effectiveness of the price control regime, something that Postcomm couldn't because of a lack of resource.
- Ofcom already has experience in dealing with access based competition.

### **Price controls and temporary arrangements**

- Further discussion on amending price controls for Royal Mail will take place between a number of the parties present. Postcomm stated that it is currently compiling its recommendations and expect these to be published within the next month. Initial indications are that changes to the price control framework could involve licence modifications with provision for a one year rollover without change. The rollover time limit is one year.
- The timeframe for consultation is yet to be determined but the process should be completed before Postcomm is wound up.

## **Ofcom taking-up the role of regulator**

- Schedule 9 covers the transitional provisions, and allows Ofcom to start work the day after Royal Ascent if necessary.
- Ofcom plans to review the market immediately. It was too early for Ofcom to indicate how prices will be controlled under the new arrangements.

## **Consumer representation under the new Act**

- It is proposed that the Communications Consumer Panel will take on responsibility for postal services issues, which will be covered by way of the Panel's existing duties.
- Ofcom would continue to operate with existing MoUs, though these may need to be revisited.
- Consumer Focus would continue to represent consumer interest in the regulated postal sector.
- Postal complaints and redress would continue as at present.
- Ofcom would need to ensure that post is adequately represented and the possibility of a new board member was discussed.
- Consumer Focus felt that consumer representation in the Bill relating to possible changes in the USO was weak. Consumer Focus proposed that it be named in the Bill as having a statutory responsibility to represent the interests of consumers.
- This approach is similar to that proposed for Consumer Focus in relation to a monitoring role for the post office network, which reflects the view that the roles of regulator and consumer representative were not best combined within a single organization.

## **Post Offices**

- Governance input will be needed to ensure there is no consumer detriment resulting from the group restructure.
- A number of issues need further clarification and discussion, including access to the Post Office network by Royal Mail and other operators, and whether POL will pursue its own commercial objectives.

## **New arrangements for monitoring the Post Office Network**

- Postcomm's statutory role in relation to the Post Office network is not discussed in the Bill; however BERR considers that under Sections 16 and 17 of the CEAR Act 2007 this responsibility could be transferred to Consumer Focus. This may require additional resource, and the scope of any transfer of responsibilities will need to be discussed further with officials.
- POL will sit as a sister company alongside RM letters, and remain part of RM Holdings; Ofcom will have no role in regulating POL.

**Organisations represented:** Age Concern England, BERR, Commission for Rural Communities, Consumer Focus, Consumer Focus Post, Federation of Small Businesses, Mail Users Association, National Consumer Federation, Ofcom and Postcomm.